

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Barry Willis,

Plaintiff,

v.

Civil No. 12-122 (JNE/JJK)
ORDER

Murnane Brandt, Professional Association;
Bayview Management Corporation;
Bayview Loan Servicing, LLC; Bayview
Financial, LLC; Bayview Financial, LP;
John E. Brandt; Cheryl L. Hauch; Kelly
S. Hadac; Peter B. Tiede; Anna C.
Mickelson; State of Minnesota; Hennepin
County District Court; Hennepin County
Sheriff Department; Board of Hennepin
County Commissioners “Hennepin County”;
City of Brooklyn Park; City of Brooklyn Park
Police Department; ACE Midwest Moving &
Storage; Daniel A. Haws; Eve Lominac;
Kathleen Sovic; David Ertel; Richard
O’Brien; Mathhew Sovic; Brian E. Bomstein;
John H. Fischer; Robert Oppenheim; Joel
Goldman; Robert Repass; Christopher
Campbell; Peter LaPointe; Tammie Wagovich;
Thomas Carr; George Williams; Daniel
Warman; Dayle Rosen; Ellen Charleton;
David Briggs; Elva Neumann; JoAnn Snyder;
Mark Glassman; Madelin Florence; Robert
Hall; Antonio Chimienti; Stuart Waldman;
John S. Gary; Charles H. Salter; Williams
R. Howard; Regina M. Chu; Richard W.
Stanek; Cory Kamp; Marvin M. Anderson;
Jeffery Lunde; Sgr. Nelson, et al.,

Defendants.

This case is before the Court on the Report and Recommendation issued by the
Honorable Jeffrey J. Keyes, United States Magistrate Judge. The magistrate judge recommends
granting the motion to dismiss filed by defendants State of Minnesota, Hennepin County District
Court, William R. Howard, Regina Chu, and John S. Garry (Docket No. 21) and dismissing this

case for lack of subject-matter jurisdiction. The magistrate judge also recommends denying as moot the motion for judgment on the pleadings filed by the Hennepin County defendants (Docket No. 9), the motion to dismiss filed by the Brooklyn Park defendants (Docket No. 18), the motion for judgment on the pleadings filed by the Bayview defendants and the Murnane Brandt defendants (Docket No. 30), and the motion for summary judgment filed by Ace Midwest Moving and Storage (Docket No. 70). Plaintiff Barry Willis objected to the Report and Recommendation, and the defendants notified the Court that they did not intend to respond to Willis's objections.

Along with his objections to the Report and Recommendation, Willis also filed a motion asking the undersigned, Judge Keyes, and Judge Boylan to recuse themselves from this case (Docket No. 88). Under 28 U.S.C. § 455(a), a judge is required to “disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. § 455(a) (2006). That provision requires disqualification “if a reasonable person who knew the circumstances would question the judge’s impartiality, even though no actual bias or prejudice has been shown.” *Fletcher v. Conoco Pipe Line Co.*, 323 F.3d 661, 664 (8th Cir. 2003) (quotation omitted). Section 455(b)(1) also requires a judge to disqualify himself “[w]here he has a personal bias or prejudice concerning a party.” 28 U.S.C. § 455(b)(1) (2006). “In order to establish bias or prejudice from in court conduct, a party must show the judge had a disposition so extreme as to display a clear inability to render a fair judgment.” *Am. Prairie Constr. Co. v. Hoich*, 560 F.3d 780, 790 (8th Cir. 2009) (quotations omitted). “A judge is presumed to be impartial, and the party seeking disqualification bears the substantial burden of proving otherwise.” *Id.* (quotations omitted). It appears Willis is arguing that the undersigned, Judge Keyes, and Judge Boylan are not impartial and biased because of their rulings in this case.

“[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.”

Liteky v. United States, 510 U.S. 540, 555, 114 S. Ct. 1147, 1157 (1994). The Court therefore denies Willis’s motion to recuse.

Turning to the Report and Recommendation, the Court has conducted a de novo review of the record. See D. Minn. LR 72.2(b). Based on that review, the Court adopts the Report and Recommendation (Docket No. 84). Therefore, IT IS ORDERED THAT:

1. The Motion to Dismiss for Lack of Jurisdiction filed by State of Minnesota, Hennepin County District Court, William R. Howard, Regina Chu, and John S. Garry (Docket No. 21) is GRANTED.
2. The Motion for Judgment on the Pleadings filed by the Hennepin County defendants (Docket No. 9), the Motion to Dismiss filed by the Brooklyn Park defendants (Docket No. 18), the Motion for Judgment on the Pleadings filed by the Bayview defendants and the Murnane Brandt defendants (Docket No. 30), and the Motion for Summary Judgment filed by Ace Midwest Moving and Storage (Docket No. 70) are DENIED AS MOOT.
3. Willis’s Motion to Recuse (Docket No. 88) is DENIED.
4. This case is DISMISSED WITH PREJUDICE for lack of subject-matter jurisdiction.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 20, 2012

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge